

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JUDITH C. GUEST,	§	
	§	No. 566, 2009
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0711020365
Appellee.	§	

Submitted: December 11, 2009

Decided: March 15, 2010

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

ORDER

This 15th day of March 2010, upon consideration of the appellant’s brief filed pursuant to Supreme Court Rule 26(c), her attorney’s motion to withdraw, and the State’s response thereto, it appears to the Court that:

(1) The appellant, Judith C. Guest, appealed to the Superior Court following a bench trial in the Court of Common Pleas and her resulting conviction and sentence on a charge of Driving Vehicle While License is Suspended or Revoked.¹ In her appeal in the Superior Court, Guest argued that the State failed to provide evidence that she received proper notice of her license revocation, and that the trial judge sentenced her with a “closed mind.” By opinion dated September 4,

¹ Guest was fined \$500.00 and was sentenced to six months at Level V imprisonment.

2009, the Superior Court affirmed Guest's conviction and sentence.² This is Guest's appeal from that decision.

(2) On appeal in this Court, Guest's defense counsel has filed a brief and a motion to withdraw pursuant to Supreme Court Rule 26(c) ("Rule 26(c)"). The standard and scope of review of a motion to withdraw and an accompanying brief under Rule 26(c) is two-fold. First, the Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for claims that could arguably support the appeal.³ Second, the Court must conduct its own review of the record and determine whether the appeal is so devoid of at least arguably appealable issues that it can be decided without an adversary presentation.⁴

(3) Guest's defense counsel asserts that, based upon a careful and complete examination of the record, there are no arguably appealable issues. Defense counsel states that he provided Guest with a copy of the motion to withdraw, the Rule 26(c) brief and appendix, and the complete trial transcript. Defense counsel also advised Guest by letter that she had a right to supplement the brief and to file a response to the motion to withdraw.

² *Guest v. State*, 2009 WL 2854670 (Del. Super.).

³ *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

⁴ *Id.*

(4) Defense counsel states that when Guest did not reply to his letter, he visited her in prison to discuss the Rule 26(c) brief and any points that she wished to have raised on appeal. Defense counsel represents that Guest told him that she wanted this Court to consider “that she had not been properly notified of her driving revocation appeal rights.” The State has responded to the Rule 26(c) brief, including Guest’s point as relayed by her defense counsel, and has moved to affirm the judgment of the Superior Court.

(5) Guest’s contention that the State failed to properly notify her of her “driving revocation appeal rights” is not supported by the record. At trial, the State, without objection, submitted into evidence a copy of the fully executed revocation notice that was personally delivered to Guest on April 20, 2007. The notice expressly provided when the revocation would become effective, *i.e.*, within fifteen days of the notice, unless a hearing was requested. Also, Guest’s notice of her driving revocation was evidenced by her admissions at trial. We agree with the Superior Court that “[i]t is clear from the record that Guest was aware that her license was revoked, and that she was not permitted to drive on October 22, 2007, at which time she was cited for driving with a suspended license.”⁵

(6) The Court has reviewed the record carefully and has concluded that Guest’s appeal is wholly without merit and devoid of any arguably appealable

⁵ *Guest v. State*, 2009 WL 2854670 (Del. Super.).

issue. We also are satisfied that defense counsel made a conscientious effort to examine the record and the law and properly determined that Guest could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice